

1 OFFICE OF THE ATTORNEY GENERAL

2 STATE OF NEVADA

3
4 In the Matter of:

5
6 CHURCHILL COUNTY BOARD OF
7 COUNTY COMMISSIONERS.

A.G. FILE NO.:13897-550

**FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

8
9 **BACKGROUND**

10 On June 12, 2025, Mr. Robert Clay Hendrix filed a Complaint with the Office of the
11 Attorney General (“OAG”) pursuant to Nevada Revised Statutes (“NRS”) 241.039 against
12 the Churchill County Board of County Commissioners (“Board”). The OAG has statutory
13 enforcement powers under Nevada’s Open Meeting Law (“OML”) and the authority to
14 investigate and prosecute violations of the OML. NRS 241.037; NRS 241.039; NRS
15 241.040. The Complaint alleged that the Board violated the OML by failing to notice and
16 agendaize meetings during the recruitment process for the Churchill County Manager
17 position.¹

18 The OAG’s investigation of the Complaint included a review of the following: the
19 Complaint and exhibits, the response filed on behalf of the Board dated August 15, 2025,
20 and the agenda, minutes and audio/video recordings for the Board’s April 3, 2025, June 4,
21 2025, and June 12, 2025, meetings. After investigating the allegations in the Complaint,
22 the OAG finds that the Board violated the OML by conducting deliberations and actions
23 through a working group and recommendation panel outside of a properly noticed public
24 meeting.

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28 ¹ The Complaint included other allegations related to conflicts of interest that do not fall within the OAG’s jurisdiction under NRS Chapter 241. As such, they will not be addressed in this opinion.

1 **FINDINGS OF FACT**

2 **The Board and the Recruitment Plan**

3 1. On April 3, 2025, County Manager Jim Barbee (hereinafter “Barbee”) submitted
4 his resignation, which would be effective July 7, 2025, and presented the County Manager
5 Recruitment Plan (hereinafter “Recruitment Plan”) to the Board.

6 2. The Board approved the Recruitment Plan by a vote of 2 to 1.

7 **The Board Approved Recruitment Plan**

8 3. The Recruitment Plan included the following:

9 Churchill County Manager Jim Barbee proposes the following recruitment plan
10 for the position of County Manager for Churchill County.

- 11 1. Post position - Open on April 11, 2025, using a closing date of May 1, 2025.
12 a. Position to be posted in newspapers - LVN, Fallon Post, Nevada
13 Appeal, Reno Gazette Journal
14 b. Online - ICMA, Indeed.com, ZipRecruiter, NACO, CareerBuilder.com,
15 Governmentjobs.com, LinkedIn.
- 16 2. Recommendation Panel (RP) - County Manager Barbee to form a
17 recommendation panel of up to three members to review applications and
18 narrow the applicant pool down to approximately three to five candidates for
19 the interview process. To be completed by May 1, 2025.
- 20 3. Application Screening Grid - Kim Brontsema to create a confidential grid for
21 ranking applications which is to be used by the recommendation panel. To
22 be completed by May 1, 2025.
- 23 4. Pre-Screen Applications - Kim Brontsema and Jim Barbee to pre-screen
24 applications to make sure they meet certain qualifications before being
25 forwarded to the recommendation panel. Applications will not be forwarded
26 if they are not submitted electronically, if they do not include a supplemental
27 questionnaire. Because the experience requirements are listed as
28 "desirable", applications that do not meet the experience requirements will
be forwarded in the process. To be completed by May 8, 2025.
5. Distribute Applications to RP - May 13, 2025.
6. Receive Scores from RP - May 20, 2025 - Members of the RP to return
completed score sheets to Kim Brontsema by this date. Kim Brontsema will
compile the data to help reach a consensus. The RP may need to meet soon
thereafter to resolve any potential discrepancies.
7. Contact Interview Candidates - May 27, 2025 - Kim Brontsema to contact
interview candidates and invite them to interview on June 5-6, 2025.
Commissioner interviews with candidates tentatively scheduled for
Tuesday, June 6, 2025.

- 1 8. Background Checks - completed by May 27, 2025. Background checks would
2 use outside service providers to check on credit history, criminal background,
3 employment and education background, etc. The outside service could cost
4 up to \$300 per candidate.
- 5 9. Select Candidate - June 6, or 13, 2025 - In case no candidate is selected on
6 June 6, 2025, a special meeting will be scheduled for June 13, 2025, for the
7 Commissioners to make a decision. The commissioners could then direct the
8 County Manager and District Attorney to negotiate the employment terms.
- 9 10. New County Manager Begins Work - June 30, 2025 (perhaps sooner or later,
10 dependent on the candidate's availability and on the amount of overlap
11 desired with retiring County Manager)

8 **Formation and Function of the Recommendation Panel**

9 4. Following the Board's approval of the Recruitment Plan, Barbee selected
10 himself, Fallon Mayor Ken Tedford, and former Churchill County Commissioner Justin
11 Heath to be on the Recommendation Panel.

12 5. After prescreening was completed by Barbee and Brontsema, applications were
13 distributed to the Recommendation Panel for evaluation.

14 6. The selected members of the Recommendation Panel reviewed applications,
15 completed scoring sheets, and reached a consensus on which candidates would advance in the
16 hiring process with the help of Brontsema.

17 7. No meetings or deliberations of the Recommendation Panel were noticed or
18 conducted in compliance with the OML.

19 8. The Recommendation Panel's selections determined which candidates would be
20 invited to interview before the Board.

21 9. The Recommendation Panel's review and scoring process occurred after
22 prescreening and before any Board interviews were conducted.

23 10. The Board did not independently review all applications prior to conducting
24 interviews.

25 11. The Recommendation Panel's scoring and evaluation process was conducted
26 outside of any publicly noticed meeting.

27 12. On June 4, 2025, the Board conducted interviews for selected candidates for the
28 County Manager position during a publicly noticed meeting.

1 The OAG has consistently interpreted the OML to include working groups or
2 subcommittees under the legal definition of a public body if appointment was by the members
3 of the public body and if the working group or subcommittee made a recommendation to the
4 public body. *See* OML File No. 2002-017 (To the extent that a group is appointed by a public
5 body and is given the task of making decisions for or recommendations to the public body, the
6 group would be governed by the OML); OML File No. 07-030 (OML does not apply to the
7 appointment of a citizen advisory panel to advise Las Vegas City Manager when acting in his
8 official capacity); OML File No. 12-039 (Director's creation of technical assistance panel
9 similar to citizen advisory panel in OML File No. 07-030 since it only made recommendations
10 to the Director and therefore not subject to the OML); OML File No. 13897-192 (Even though
11 the Board did not form or appoint Committee members it was still a public body since it was
12 formed to make recommendations to the Board and was subject to the OML).

13 These prior OAG opinions were codified with the passage of AB 70 during the 2019
14 Nevada legislative session. Since this legislative update, the OAG has further examined the
15 subcommittee and working group issue through multiple OML opinions. *See* OML File No.
16 13897-397 (Budget Committee created by Superintendent was not a public body because it
17 did not make recommendations to the Board); OML File No. 13897-413 (Board violated the
18 OML by failing to ensure that committees followed the OML); OML File No.13897-456 (Entity
19 created by federal law to make recommendations regarding annual plan not a public body
20 under the OML); OML File No. 13897-465 and 466 (Subcommittee created by the Board, three
21 members appointed by the Board, and authorized to make recommendations was a public
22 body and violated the OML); OML File No. 13897-508 (Action by the Board to
23 narrow candidate list through their counsel outside of a public meeting was a violation of
24 the OML).

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1 CONCLUSIONS OF LAW

2 The Board is a “public body” as defined in NRS 241.015 and subject to the OML.

3 **A. The County Manager Recruitment Plan constituted a working group under**
4 **the OML pursuant to NRS 241.015(5)(d)(1).**

5 A subcommittee or working group consisting of at least two persons appointed by
6 a public body is itself a public body if a majority of its members are members or staff
7 members of that public body. *See* NRS 241.015(5)(d)(1). Further, it must be
8 established that the individuals acted collectively as a working group
9 or subcommittee, as opposed to independently performing separate functions.

10 First, the Recruitment Plan approved by the Board specifically identified and
11 assigned Barbee and Brontsema joint responsibilities in carrying out the hiring
12 process for the Churchill County Manager. These responsibilities were part of a
13 structured process approved by the Board to carry out its appointment function required
14 by NRS 244.125. Through these assignments, Barbee and Brontsema exercised delegated
15 authority at a preliminary stage of the Board’s decision-making process.

16 Second, Barbee and Brontsema were both staff members of the Board within
17 the meaning of NRS 241.015(5)(d)(1) and were charged with prescreening
18 applications and performing related functions necessary to advance the Board’s
19 statutory appointment of a county manager. These responsibilities were assigned
20 to them jointly through the Recruitment Plan approved by the Board. Since
21 the working group consisted of two staff members appointed by the Board, Barbee
22 and Brontsema, both members constituted a majority under NRS 241.015(5)(d)(1).

23 Third, the joint responsibilities of Barbee and Brontsema constituted a working
24 group that engaged in deliberative activities within the Board’s statutory appointment
25 process for the County Manager. Under NRS 241.015, “deliberate” includes the collective
26 examination and exchange of information preliminary to a decision. The activities
27 performed by Barbee and Brontsema fall within this definition because they shaped
28 the pool of candidates considered in the hiring process. The minutes from the April 3,

1 2025, Board meeting further reflect that the Board considered and rejected other methods
2 for conducting the recruitment process, including hiring a headhunter firm or having the
3 Board chair oversee the process. The Board selected a structured process assigning defined
4 responsibilities to Board staff outside of a public meeting. That structure resulted in key
5 parts of the candidate evaluation process being carried out by Barbee and Brontsema
6 outside of a publicly noticed meeting.

7 Therefore, since both Barbee and Brontsema were appointed by the Board in
8 the Recruitment Plan, were staff members of the Board, represented a majority of the
9 members of the working group, and collectively performed functions that constituted
10 deliberative activity within a structured decision-making process, their joint actions
11 constituted a working group under NRS 241.015(5)(d)(1). The failure to notice or conduct
12 open meetings for joint activities in carrying out the Recruitment Plan activities violated
13 the OML.

14 **B. The Recommendation Panel constituted a “public body” under the OML**
15 **pursuant to NRS 241.015(5)(d)(2).**

16 A subcommittee or working group consisting of at least two persons who are
17 appointed by the public body is a public body if the subcommittee or working group is
18 authorized to make a recommendation to the public body. *See* NRS 241.015(5)(d)(2).
19 The OAG has previously found that narrowing a pool of candidates through
20 scoring or evaluation outside of a public meeting constitutes “action” under the OML.
21 *See* OML File No. 13897-508.

22 First, the Recruitment Plan approved by the Board expressly required “County
23 Manager Barbee to form a Recommendation Panel of up to three members to review
24 applications and narrow the applicant pool down to approximately three to five candidates
25 for the interview process.” Even though the Board did not appoint each member of
26 the Recommendation Panel by name, the minutes of the April 3, 2025, meeting
27 reflect that the Board approved the Recruitment Plan and directed the structure of the
28 process. During the April 3, 2025, meeting, Commissioners discussed the
composition of the Recommendation Panel, including the potential involvement of former

1 county commissioners. Following that discussion and Recruitment Plan approval by the
2 Board, Barbee formed the Recommendation Panel consistent with that direction and
3 included himself, Mayor Ken Tedford, and former Commissioner Justin Heath. The
4 Recommendation Panel therefore existed solely as a result of Board action approving the
5 Recruitment Plan and delegating authority to form the Panel. The Recruitment Plan, as
6 approved by the Board, also appointed Brontsema to “help reach a consensus,” which
7 functionally included her as a member of the Recommendation Panel. This meets
8 the requirements set forth in NRS 241.015(5)(d) since Brontsema, former Commissioner
9 Justin Heath, and Barbee were all functionally appointed by the Board to the
10 Recommendation Panel.

11 Second, after the prescreening process conducted by Barbee and Brontsema,
12 the Recommendation Panel collectively scored candidates, returned completed score
13 sheets, and participated in a process designed to reach consensus. The Board’s
14 response to the OAG attempts to characterize this process as a “consult” between
15 Barbee and community members, but that characterization is not supported by the
16 plain language of the Recruitment Plan approved by the Board. The Recruitment Plan
17 does not use the word “consult” or describe the role of Recommendation Panel members
18 as advisory. The Recommendation Panel’s function was specifically defined to
19 include: (1) review of applications, (2) scoring candidates, and (3) narrowing the
20 applicant pool to a limited number of finalists to recommend to the Board. These
21 functions resulted in a defined set of candidates advanced to the Board and therefore
22 constituted a recommendation on which candidates would be considered for
23 appointment. This function directly shaped the Board’s ultimate decision and
24 constitutes “action” under the OML. *See* OML File No. 13897-508.

25 Therefore, the Recommendation Panel functioned as a working group
26 authorized to make recommendations to the Board and therefore constituted a public
27 body under NRS 241.015(5)(d)(2). The Recommendation Panel conducted its
28 deliberations outside of a properly noticed public meeting in violation of the OML.

1 **SUMMARY**

2 Upon investigating the present Complaint, the OAG makes findings
3 of fact and conclusions of law that the Churchill County Board of County
4 Commissioners violated the OML as described above. If the Attorney General
5 investigates a potential OML violation and makes findings of fact and conclusions of
6 law that a public body has taken action in violation of the OML, “the public body must
7 include an item on the next agenda posted for a meeting of the public body which
8 acknowledges the findings of fact and conclusions of law.” NRS 241.0395. The public
9 body must treat the opinion of the Attorney General as supporting material for the
10 agenda item(s) in question for the purpose of NRS 241.020. *Id.* Accordingly, the
11 Board must place an item on its next meeting agenda in which it
12 acknowledges the present Findings of Fact and Conclusions of Law
13 (“Opinion”) resulting from the OAG’s investigation in this matter. The Board must
14 also include the OAG Opinion in the supporting materials for its next meeting.

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16 Dated: May 20, 2026.

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18 AARON FORD
19 Attorney General

20 By: /s/ John M. Nolan
21 JOHN M. NOLAN
22 Deputy Attorney General
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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of May 2026, I served the foregoing **FINDINGS OF FACT AND CONCLUSIONS OF LAW** by depositing a copy of the same in the United States mail, properly addressed, postage prepaid, CERTIFIED MAIL addressed as follows:

Robert Hendrix

Complainant

Certified Mail No.: [REDACTED] 6678

Joseph Sanford, Chief Civil Deputy District Attorney
Churchill County District Attorney Office
165 North Ada Street
Fallon, Nevada 89406
Representative for Respondent

Certified Mail No.: [REDACTED] 6685

/s/ Quintina Buck
An employee of the Office of the
Nevada Attorney General